

**REMARKS**

Claims 14-27 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent 6,755,884.

Claim 28 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5 and 7 of U.S. Patent 6,755,884 in view of WO 00/15555.

In response, the common assignee submits herewith a Terminal Disclaimer disclaiming the terminal part of any patent granted on the above-identified application which would extend beyond the expiration of the full statutory term as presently shortened by any terminal disclaimer of U.S. Patent 6,755,884.

Withdrawal of the foregoing rejections is respectfully requested.

Claims 13, 14 and 16-28 were rejected under 35 U.S.C. § 102(a) as being anticipated by WO 00/15555. Particularly, the Examiner considered WO 00/15555 as substantially meeting the terms of the rejected claims, as noted in the Office Action.

Applicants traverse, and respectfully request the Examiner to reconsider for the following reasons.

WO '535 describes a niobium powder consisting of  $\text{NbO}_x$  ( $x=0.7$  to  $1.1$ ). More specifically, the powder is obtained by partially reducing  $\text{Nb}_2\text{O}_5$ , and the reference teaches a mixture mainly comprising  $\text{NbO}_{1.1}$ ,  $\text{NbO}$  and/or  $\text{NbO}_{0.7}$  (See Table). That is, the power taught by the reference can be said to virtually consist of  $\text{NbO}_{1.1}$ ,  $\text{NbO}$ ,  $\text{NbO}_{0.7}$  and the starting material

Nb<sub>2</sub>O<sub>5</sub>. The same Table does not include any data showing the presence of metal niobium obtained by reducing Nb<sub>2</sub>O<sub>5</sub> in the powder of WO '555.

On the other hand, the present Applicants teach that (i) the niobium powder "can be prepared by preliminarily oxidizing a niobium primary powder or a granulated powder thereof" (see the specification on page 9, lines 3-5), (ii) the niobium powder of the present invention consists of metal niobium and oxidized niobium, and (iii) the oxygen content in the powder is adjusted. The present invention differs from WO '555 with respect to these points. That is, WO '555 does not meet claim 13 which requires fabricating the sintered body from a niobium granulated powder, whereas all of the powder taught by WO '555 is at least partially oxidized (no niobium metal). Therefore, the present claims are not anticipated by WO '555.

Moreover, the present specification describes that a capacitor obtained in a test using the powder of WO '555 had unsatisfactory properties (see the paragraph bridging pages 3 to 4 of the specification). Namely, the above-noted differences are unobvious differences.

For the above reasons, it is respectfully submitted that claims 13, 14 and 16-28 are patentable over WO '555, and withdrawal of the foregoing rejection is respectfully requested.

Withdrawal of all rejections and allowance of claims 13-31 is earnestly solicited.

In the event that the Examiner believes that it may be helpful to advance the prosecution of this application, the Examiner is invited to contact the undersigned at the local Washington, D.C. telephone number indicated below.

AMENDMENT UNDER 37 C.F.R. §1.111  
U.S. Appln. No. 10/727,548

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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Abraham J. Rosner  
Registration No. 33,276

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

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